

STOREY AND MILLER

PO Box 3251
Spokane, WA 99220

RECEIVED JUN 26 2019

HL

CITY OF COLFAX, CIVIL SERVICE COMMISSION

In re the Discharge of Chief Rick McNannay,

NO. 09-2-05647-6

DECLARATION OF G. TODD
VANEK

G. Todd Vanek declares under the penalty of perjury, per the laws of the State of Washington, as follows:

1. I am the Mayor of the City of Colfax, Washington ("City").
2. As Mayor of the City, I am the hiring and firing authority for City employees.
3. The City has utilized the workplace investigations program provided by Clear Risk on multiple occasions in making both hiring and firing decisions with no voiced concerns by either the City Council or the Civil Service Commission.
4. On or about June 4, 2017, I promoted Chief McNannay to exempt status with Civil Service protection. At his new salary of \$75,000, Chief McNannay became the highest paid City employee. I never told Chief McNannay he would lose his Civil Service protection.

ORIGINAL

- 1
2 5. While negotiating Chief McNannay's exempt status, Chief McNannay asked
3 if he could still receive payment for the WSU games. I responded I was
4 unsure and brought City Finance Director, Chris Mathis to clarify Chief
5 McNannay's question.
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- 7
8 6. At the June 4, 2017 meeting, Ms. Mathis told Chief McNannay the City
9 could not pay overtime to exempt employees.
10
- 11 7. At the time of the June 4, 2017 negotiations, I was unaware that Chief
12 McNannay entered into any written agreement on behalf of the City.
13
- 14 8. After Chief McNannay demanded payment on the WSU contracts, on
15 December 11, 2017, I emailed Chris Mathis, City Finance Director, to pay
16 Chief McNannay for his time worked pursuant to the WSU contracts. After
17 discussing the payment issues with Ms. Mathis and the City Attorney, I
18 realized paying Chief McNannay, an exempt employee, would be considered
19 an illegal gifting of public funds. I then explained to Chief McNanny that the
20 City could not reimburse him for the WSU games. Attached hereto as
21 Exhibit 1 is a true and correct copy of the email chain between Ms. Mathis
22 and myself dated December 11, 2018.
23
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- 28 9. I was never conspiring not to pay Chief McNannay for his work at the WSU
29 games. It was only after I discussed the WSU contract issue with both Ms.
30 Mathis and the City attorney that I concluded Chief McNannay would not be
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1
2 paid for his time worked at the WSU games.

3 10. Prior to Chief McNannay signing the November 2017 interlocal agreement
4 with Whitman County Public Hospital on behalf of the City, Chief
5 McNannay did not discuss the contract with me.
6

7
8 11. Although Chief McNannay's 2017 Performance review was never issued via
9 advice of counsel, I had discussions with Chief McNannay about the 2017
10 performance review. I told Chief McNannay his review was "not shaping
11 up" due to his mismanagement of the Police Department budget.
12

13
14 12. I told Chief McNannay multiple times that his performance was not shaping
15 up: examples include lack of maintaining the police department budget and
16 entering into contracts on behalf the City, exposing the City to potential
17 liability.
18

19
20 13. My objective was never to get rid of Chief McNannay. Rather, my objective
21 was to fix substantial problems with the Police Department. However, every
22 time I offered to help Chief McNannay with better organizing the Police
23 Department, Chief McNannay consistently told me I had "no idea what they
24 did back there."
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30
31 DATED this 26th day of June, 2019, at Colfax, Washington.
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By G Todd Vanek
G. TODD VANEK

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served a true and correct copy of the foregoing by the method indicated below and addressed as follows:

Storey & Miller
505 W. Riverside, Suite 500
Spokane, WA 99201

☐ U.S. Mail
☒ Hand-Delivered (Original)
☐ Overnight Mail
☐ Email

Robert A. Dunn
Alexandria T. Drake
Dunn & Black, P.S.
111 N. Post, Suite 300
Spokane, WA 99201-0705

☐ U.S. Mail
☐ Hand-Delivered
☐ Overnight Mail
☒ Email

Jon Kehne
[REDACTED]
Colfax, WA 99111

☒ U.S. Mail
☐ Hand-Delivered
☐ Overnight Mail
☒ Email

Leslie Cloaninger
[REDACTED]
Colfax, WA 99111

☒ U.S. Mail
☐ Hand-Delivered
☐ Overnight Mail
☒ Email

Rob Aucutt
[REDACTED]
Colfax, WA 99111

☒ U.S. Mail
☐ Hand-Delivered
☐ Overnight Mail
☒ Email

Dated this 26th day of June, 2019.

Bonita Felgenhauer
Bonita Felgenhauer

Exhibit 1

Debra Rakentine

From: Andrea Callaghan <acallaghan@chooseclear.com>
Sent: Wednesday, January 10, 2018 10:04 AM
To: Tammy Wiersma
Subject: City of Colfax/Chief McNanny
Attachments: Fwd: Rick WSU Games; Fwd: Attached Image; Fwd: Attached Image

Tammy,

What is your claims number for this?

Thanks,
Andrea

Debra Rakentine

From: Chris Mathis <finance@colfaxwa.org>
Sent: Wednesday, December 13, 2017 12:35 PM
To: Andrea Callaghan
Subject: Fwd: Rick WSU Games

Follow Up Flag: Follow up
Flag Status: Flagged

Here is the email stream for Rich and Monte.

Thanks,
Chris

Chris Mathis
Finance Director
City of Colfax
(509) 397-3861
finance@colfaxwa.org

----- Forwarded message -----

From: Chris Mathis <finance@colfaxwa.org>
Date: Wed, Dec 13, 2017 at 11:09 AM
Subject: Re: Rick WSU Games
To: Todd Vanek <mayor@colfaxwa.org>
Cc: John Kragt <john@cmd-lawfirm.com>, Dodd Snodgrass <cityadmin@colfaxwa.org>

To clarify - I did NOT say he should get paid. I said under no circumstances would he be paid to work overtime - he's exempt, he doesn't get paid overtime! I suggested he could make his own contract with WSU. He is supposed to monitor his own schedule, he did not have to work 40 hours and then go work the games, he could have worked a short week and included the games. He did not document his time worked on his timesheets for the games so we have no verifying documentation that he worked those days. I will not be paying him through payroll or A/P - don't try to force me to be party to that.

Chris Mathis

Chris Mathis
Finance Director
City of Colfax
(509) 397-3861
finance@colfaxwa.org

On Wed, Dec 13, 2017 at 9:56 AM, Todd Vanek <mayor@colfaxwa.org> wrote:
Hi John,

I spoke with Rick last night (with Dodd and Matt Malakowski) and he has backed off the legal stance but is still adamant about getting something for his extra work. Matt was actually a help because he helped Rick understand some of the nuances of the situation, but both of them are standing behind the fact that he should be paid at least an hourly rate for his work.

I still think he should not be paid but do recognize that Chris and I both told him during negotiations to shift him to exempt that there should be some way (eg direct payment) for him to get paid from WSU. We did not agree to paying him the full amount charged to WSU or at an overtime rate. We also did not agree on how he would be paid. We just started getting invoices.

I really think he doesn't get it. He can't seem to comprehend the situation. He continues to dig down to find examples that we then debunk and then he finds other examples. Chris and Dodd are finding out what the insurance company thinks and I will ask Dodd to gather info on the additional examples given.

If we want to stick to principle, I think we need to cite rcws, ethics laws, and case law to emphasize the situation HE has gotten himself into.

If we want to settle this and be done, he would take his straight hourly rate and the remainder of the funds would stay in the city.

I am seeking legal guidance on how to put closure to this issue (without setting precedence).

10/11

On Dec 12, 2017 3:17 PM, "John Kragt" <john@cmd-lawfirm.com> wrote:

Everyone,

I have spoken with the mayor and done quite a bit of research in a short time and here is my opinion.

Rick is an exempt employee and therefore there is no legal justification for paying him more than his salary. I don't see a council bonus structure or policy in place to make a recommendation of payment. I don't want to get into comparisons between department heads or start down any line with that. I want it to be very clear that Rick is a civil service employee and thus has those required rights and privileges. If Rick is unhappy or has concerns about this and would like to seek legal action that is his right and he is entitled to that. There should be no dissuading him or pressuring him from exercising that right.

John M. Kragt

Attorney, Shareholder

Carpenter, McGuire & DeWulf, P.S.

108 N. Adams Street Ritzville, WA 99169

Phone (509) 659-0425; Fax (509) 659-0529

Colfax (509) 397-4345 (Thursday, & 1st and 3rd Mondays Only)

www.cmd-lawfirm.com

Email: john@cmd-lawfirm.com

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From: Chris Mathis [mailto:finance@colfaxwa.org]

Sent: Monday, December 11, 2017 1:36 PM

To: Todd Vanek <mayor@colfaxwa.org>; John Kragt <john@cmd-lawfirm.com>; Dodd Snodgrass <cityadmin@colfaxwa.org>

Subject: Re: Rick WSU Games

First, I'm still questioning the clause in the WSU contract, that Rick signed that states:

Anti-kickback. No officer or employee of the city having the power or duty to perform an official act or action related to this agreement shall have or acquire any interest in the agreement, or have solicited, accepted or granted a present or future gift, service or other thing of value from or to any person involved in this agreement.

Also, we are talking about over \$3,000 here, "rolling" comp and violating, yet again for Rick, our set policy didn't become a good idea with this scenario. And this is not going to be paid without council approval with an amendment if that will be needed, I will work on the numbers. In the meantime, it's my job to make sure we are not doing anything financially that we should not, this violates many areas and I will be left answering the State Auditor questions as to how this could happen.

I need something more than an email telling me to:

Gift public funds

Pay out over the budget

Pay out something not ever budgeted for by Rick

Pay out for his choice to do a job that he said brought in revenue for the city but will now cost the city

Pay an exempt employee overtime (this is an overtime rate with more added) while not paying other exempt employees for their overtime.

Pay out an amount, that includes the cost of benefits and retirement the city has paid for, why should Rick get any amount for those costs?

Secondly, should Matt and I also bill the city for the many hours of overtime we have put in this year since we all work under the same personnel policy?

Chris

Chris Mathis

Finance Director

City of Colfax

(509) 397-3861

finance@colfaxwa.org

On Mon, Dec 11, 2017 at 1:00 PM, Todd Vanek <mayor@colfaxwa.org> wrote:

Hi Chris,

Please pay Rick for his WSU work as soon as possible. If necessary, we can roll more of his comp time to 2018 to make up the difference in the budget.

Todd

Debra Rakentine

From: Chris Mathis <finance@colfaxwa.org>
Sent: Wednesday, December 13, 2017 12:36 PM
To: Andrea Callaghan
Subject: Fwd: Attached Image
Attachments: 3233_001.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Here is the portion of our personnel policy addressing exempt employees.

Chris

Chris Mathis
Finance Director
City of Colfax
(509) 397-3861
finance@colfaxwa.org

----- Forwarded message -----

From: <colfaxcityhallcopier@gmail.com>
Date: 2017-12-13 12:32 GMT-08:00
Subject: Attached Image
To: Chris Mathis <finance@colfaxwa.org>